

U.S. Patent Application No. 10/088,750
Amendment After Final dated June 7, 2006
Reply to Office Action of April 25, 2005

REMARKS/ARGUMENTS

Favorable reconsideration and continued examination of the present application are respectfully requested.

In the Office Action of April 25, 2006, claims 9, 17, 20, 24, 27, 30, and 31 were rejected. Claims 16, 22, 23, and 25 were objected to because they are dependent on a rejected claim. No claim was allowed. In the present amendment to the claims of the present application, claims 20 and 30 are amended by deleting item 3) from the claims.

The claim amendments presented are limited to those that resolve issues of the written description requirement raised by the Examiner in the Office Action. The claim amendments were not presented earlier because the applicants relied on bona fide alternative arguments and amendments in their earlier response to traverse the rejections made in the application. To expedite prosecution, the application is further amended in view of the Examiner's further comments in the latest Office Action. No new questions of patentability are raised by these amendments and no need for further searching is necessitated. The amendment places the application in condition for allowance or at the very least in better condition for allowance. Accordingly, entry of the amendments under 37 CFR 1.116(c) is respectfully requested.

The non-elected claims have not been canceled in order to reserve the right to pursue the subject matter and to reserve the right to seek appropriate review of the restriction requirement at the appropriate time. Upon indication of allowability of the elected claims, the non-elected claims may then be canceled.

The applicants appreciate the Examiner's withdrawal of the rejections as indicated on pages 2-3 of the Office Action.

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Rejection of claims 9, 17, 24, 27, 30, and 31 under U.S.C. §112, first paragraph

At page 3 of the Office Action, the Examiner still rejects claims 9, 17, 24, 27, 30 and 31 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement (it appears that the Examiner intended to include claim 20 in this rejection). Particularly, the Examiner alleged that the present application does not describe a genus of variants for a polynucleotide sequence that is substantially identical to the base sequence of SEQ ID NOs: 1-6 or 7 and having a function for promoting translation activity, or a structure homologous to the structures of PK I, II and III in the RNA higher-order structure. Further, the Examiner alleged that the present application does not describe the structures that are homologous to the structures of PK I, II and III and that without guidance on the structure to function or activity relationship for variants of SEQ ID NOs: 1-7, one skilled in the art would not know which nucleotides in the sequences of SEQ ID NOs: 1-7 are essential for its translation activity, and how to identify a functional polynucleotide from numerous polynucleotides having at least 50% homology to SEQ ID NOs: 1-7. For the following reasons, this rejection is respectfully traversed.

It appears from this rejection, that the Examiner is objecting to item 3 as recited in claims 20 and 30 ("a base sequence substantially identical to the base sequence of 1) and having the at least PK (pseudoknot) I, II and III structures or structure homologous thereto"). While the applicants disagree with the Examiner, the claims have been amended in order to expedite prosecution of the present application. In particular, item 3) of claims 20 and 30 has been deleted. Therefore, this rejection should be withdrawn.

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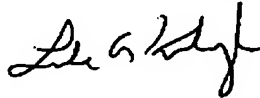
Objection to claims 16, 22, 23, and 25

The applicants appreciate the Examiner stating that claims 16, 22, 23, and 25 are objected to only because the claims are dependent from rejected claim 20. The applicants respectfully submit that claims 9, 16, 17, 20, 22-25, 27, 30, and 31 are also in condition for allowance.

Conclusion

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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